IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICITON

INCOME TAX APPEAL NO.517 OF 2004

M/s.Prime Construction Pvt.Ltd. .. Appellant.

Versus

The Asstt. Commissioner of Income-tax, Circle 5(9), Mumbai .. Respondent.

Mr.Vipul B. Joshi with Mr.H.H. Gada, Mr.Sameer G. Dalal for the appellant.

Mr.R.D. Bhatt for the respondent.

CORAM : DR.S. RADHAKRISHNAN, &
J.P. DEVADHAR, JJ.

DATED : 22ND JANUARY, 2007.

P.C. :

1. Heard learned counsel for the appellant and the learned counsel for the respondent.

2. The learned counsel for the respondent fairly stated that in view of the order passed by the Income Tax Appellate Tribunal dated 14th June, 2006 with regard to the assessment year 1996-97 relating to penalty proceedings under Section 271(1)(c) of the Income Tax Act, 1961 wherein it was held that 97 gas cylinders were duly delivered and the transaction was held to be genuine. The said finding has been accepted by the revenue.

3. In view thereof, we quash and set aside the

impugned order dated 24th October, 2003 and remand the matter back to the Income Tax Appellate Tribunal for considering the same afresh.

4. The appeal stands disposed of with no order as to costs.

(DR.S. RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)